

Letter RO-2 – California Native Plant Society

RO-2-1 This comment provides information about the California Native Plant Society. The comment also states there are flaws in the DEIR (2015), including significant, undocumented impacts to sensitive species. The comment further states that, while the effort to create Alternative H is appreciated, there are still significant problems and shortcomings, which are described in the comments that follow. Overall, this comment provides an introduction to the issues raised in the remainder of the letter. Please refer to Responses to Comments RO-2-2 through RO-2-31 below.

RO-2-2 The comment states that the directions given in the Recirculation Reader's Guide appear contradictory and asks what "are we allowed to comment on?" For clarification, as stated in paragraph 4 of the Recirculation Reader's Guide, "the reviewer may comment on the entirety of the new Chapter 2.10, the entirety of the new Appendix C-2, the entirety of Chapter 4, and the entirety of the new Appendices D-1... [through] D-24." Therefore, comments on the appendices are allowable. This comment does not raise any new issue or include any new substantive comment concerning the adequacy of the Draft EIR; therefore, no further response is provided.

RO-2-3 The comment refers to CEQA Guidelines Section 15088(F)(2), which addresses recirculation of an EIR. The comment further states that comments on the appendices should be allowable. The commenter notes that the appendices include new information that contradicts unchanged chapters in the original EIR. The commenter also asks for clarification regarding rewritten mitigation measures for Alternative H. The commenter is correct that reviewers may comment on the new recirculated appendices in addition to the recirculated EIR sections. The recirculated appendices for Alternative H address impacts of the alternative, while the 2015 EIR analyzes the proposed Project. The commenter has not provided specific instances where the new appendices contradict the unchanged chapters in the EIR; thus, the County cannot fully respond to this comment.

In regard to the updated mitigation measures listed in the new appendices (specifically biological resources), these would only be applicable to Alternative H. The Global Climate Change section was recirculated for the proposed Project; therefore, the new mitigation measures provided in the new Section 2.10 apply to both the proposed Project and Alternative H.

RO-2-4 The comment states that sensitive species were misidentified, not surveyed for, or not surveyed in the correct season. The comment then specifically discusses Nuttall's scrub oak and states there are unmitigated, significant impacts to this species. The comment states that the Project site is within the physically documented range of Nuttall's scrub oak, and impacts to this species should be addressed in the EIR. In response, the County agrees with the commenter, and the identification of scrub oak in the EIR, based on discussion with the original botanical team and the San Diego County Museum of Natural History, was changed to Nuttall's scrub oak (*Quercus dumosa*). In the Final EIR, impacts to Nuttall's scrub oak resulting from the proposed Project were reviewed. Nuttall's scrub oak is not addressed by the Otay Ranch RMP or RMP2. This plant species was not anticipated to be present within the Otay Ranch and thus was not addressed by

the Otay Ranch RMP1 because of its more coastal distribution. In fact, recent information indicates that most records of Nuttall's scrub oak are restricted to areas of low elevation within sight of the ocean (Fryer 2012)¹, although it is also acknowledged that the species has three eastern occurrences. The largest population occurs in Torrey Pines State Park, and the plant extends from the U.S. border north to Santa Barbara. Regardless, because of the small area (6.2 acres) and the isolated number of plants proposed to be impacted, impacts to Nuttall's scrub oak are concluded to be less than significant.

RO-2-5 The comment states the County must assume that Nuttall's scrub oaks are on the Project site until proven otherwise and impacts need to be mitigated. The comment further states that per Otay Ranch Phase 2 Resources Management Plan, the County should mandate 75 percent of the population be preserved in situ and, if another goal is chosen, it should be explained. In response, there are no criteria in the Otay Ranch Phase 1 RMP to preserve Nuttall's scrub oak on site. This species would not be preserved within the Project site. Please see Response to Comment RO-2-4 above regarding impacts and mitigation for Nuttall's scrub oak.

RO-2-6 The comment expresses concern about lack of surveys for sensitive bryophytes and lichens, such as the Campbell's liverwort, bottle liverwort, and woven-spored lichen species. The comment further states that these species do not appear in dry years and that surveys would need to occur in a wet year soon after rains (January or February). In response, additional rare plant surveys were conducted by a qualified biologist in 2015 to address the plants discussed by the commenter and to add any rare plants found on the site, and to correct or confirm previous work. In response to a comment received May 17, 2015, these additional surveys were conducted early in July 2015. The annual rain received during the 2014–2015 season was 11.03 inches and thus was an adequate rainfall year. The staff conducting the surveys have expertise in identifying the sensitive bryophytes and lichens noted by the commenter. Prior to conducting the surveys, review of rainfall and the soil, and species for which concern was expressed was conducted, including communication with previous investigators and review of distribution and habitat requirements. Review of the occurrences of these species indicates that the closest location of Campbell's liverwort is approximately 10 miles west, the closest location of bottle liverwort is 15 miles west, and the closest location of woven-spored lichen is approximately 15 miles northwest. The information regarding species that have potential is included in the Biological Resources Technical Report Supplemental Analysis for Alternative H (Appendix D-3) in Section 2.

RO-2-7 The comment states surveys for little mouseltail and California adder's tongue need to be performed in the winter of a wet year. The County notes that surveys for plants that could occur within the vernal pools were conducted simultaneously with the vernal pool surveys to ensure appropriate conditions as noted by the commenter. Detailed information has been added to the Biological Resources Technical Report Supplemental Analysis for Alternative H (Appendix D-3) in Section 2 that provides the dates of the additional survey dates conducted for the vernal

¹ Fryer, J.L. 2012. *Quercus berberidifolia*, *Q. dumosa*. In: Fire Effects Information System, [Online]. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). Accessed January 14, 2015. <http://www.fs.fed.us/database/feis/>.

pools that also included looking for little mousetail which was not observed during any subsequent surveys. California adder's tongue was documented to have moderate potential to occur onsite and was documented to be present offsite but was not detected in 2015.

- RO-2-8** The comment expresses concern regarding a number of other rare plants, such as the Engelmann oak, singlewhorl burrobush and Dunn's mariposa, that are absent from sensitive plant surveys. In response, surveys were conducted by a number of botanists over a number of years (1999, 2000, 2002, 2009, and 2015 with vernal pools evaluated for rare plants in 2015). All rare plants have been recorded for each survey. For Dunn's mariposa lily, discussions with the previous botanist indicated that, if present, this species would have been observed, but that *Calocortus splendens* was observed instead. Dunn's mariposa lily was not observed. If present, singlewhorl burrobush would have been observed since it is a perennially present species, but it was not observed during surveys. California adder's-tongue was documented to be observed outside of the Project area and was not observed onsite.
- RO-2-9** The comment states that Engelmann oak is on the Specific Plan prohibited list of species. County policy does not prohibit the use of Engelmann oak. The prohibited plant list in the Specific Plan will be updated to remove Engelmann oak, and thus it may be planted within appropriate locations.
- RO-2-10** The comment states that ashy spikemoss would be impacted and requires mitigation. In response, this species has been added to the 2015 Draft EIR to the plant compendium based on the 2015 surveys. Most of the occurrences of this species on the Project site are within the areas where soils have not been disturbed and will be preserved within the Alternative H Preserve lands.
- RO-2-11** The commenter states that the lack of up-to-date surveys and surveys in the proper season on-site has caused sensitive plants to be missed. In response, the Biological Resources Technical Report Supplemental Analysis for Alternative H (Appendix D-3) identifies surveys that have been conducted. Surveys were conducted by a number of botanists over a number of years (1999, 2000, 2002, 2009, and 2015 with vernal pools evaluated for rare plants in 2015). All rare plants have been recorded for each survey and each survey covered the entire site. No significant changes have occurred to the conditions of the site. Additionally, mitigation measures M-BI-1d and M-BI-8 have been included to provide for salvage of rare plants, which will also provide for preservation.
- RO-2-12** The comment provides a table that lists percentage of specific plant species preserved on site and the percentage preservation required by the Otay Ranch RMP Phase 2. Mitigation measure M-BI-8 requires translocation and restoration for San Diego goldenstar, San Diego barrel cactus, and San Diego marsh-elder in compliance with RMP Phase 2. Of the other species listed in the table provided by the commenter, only California adder's tongue has a percentage (50 percent) identified for preservation and that percentage is based on ranch-wide conservation and not for each project. For the other species mentioned by the commenter, including western dichondra, little mousetail, and ashy spikemoss, they are not included in the RMP evaluation for preservation for Marsh elder, in compliance with RMP Phase 2. Mitigation for sensitive plant species is also provided through conveyance of preserve land.

- RO-2-13** The commenter raises a concern over the lack of specificity for the vernal pool restoration plan. The comment also states that the vernal pool planting plan and grading plan are to be created by a registered landscape architect and asks why a specialist in vernal pool restoration is not specified. In response, the language quoted by the commenter is from the County revegetation plan template and is standard language. The vernal pool restoration plan is currently in draft form and will be revised during the permitting and approval process to specify that a restoration specialist will be used for the preparation of the plans and specifications. The vernal pool restoration plan will require review and concurrence from the County and Wildlife Agencies before it is finalized in accordance with MM-BIO-7.
- RO-2-14** The commenter asks whether Appendix D-21, Fire Protection Plan (FPP) for Alternative H, properly analyzes all the predictable impacts of a wildfire and whether it mitigates for them. The comment also refers to the CEQA checklist regarding wildfire. In response, the FPP prepared for Alternative H properly analyzes the potential impacts from wildfire based on County guidelines and formats which document fire risk, evaluate conformance with fire and building codes, and provide fire protection recommendations that become Project conditions with approval. Based on the FPP, Alternative H would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires. Alternative H is planned, designed, and constructed using ignition-resistant building materials required by 2017 San Diego County Consolidated Fire Code, 2016 California Building and Fire Codes, and the 2016 California Residential Code.
- RO-2-15** The comment discusses potential structural damage from wildfires and impacts to the insurance companies and response agencies. In response, both the Alternative H and the proposed Project's FPP have been accepted by the San Diego County Fire Authority (SDCFA). As stated in Chapter 4 of the FPP for Alternative H, structure losses are overwhelmingly associated with (1) older structures not built to ignition resistant standards, (2) structures not provided adequate fuel modification zones and vegetation management, and (3) structures built in less ignition-resistant landscapes that are not defensible (IBHS 2008²). Alternative H and the proposed Project would include new construction built to ignition-resistant standards and would provide fuel modification in accordance with County requirements. Also, both the proposed Project and Alternative H are considered defensible by the SDCFA. The plan provides for a redundant system of fire protections that are specifically designed for the types of wildfires that could occur within its vicinity.
- RO-2-16** The comment refers to the statement in Appendix D-21 (Fire Protection Plan for Alternative H) that the plan does not guarantee that a fire will not occur or will not result in injury, loss of life, or loss of property. The comment states that this statement in the FPP contradicts the conclusion in the EIR that the "Proposed Project would not result in a cumulatively significant impact related to the risk of wildfires. In response, the statement in the FPP acknowledges that fire is a dynamic and somewhat unpredictable occurrence. Therefore, the FPP cannot guarantee that a fire will never occur or that injury, loss of life, or loss of property will never occur. The

² Institute for Business and Home Safety. 2008. *Mega Fires: The Case for Mitigation*. The Witch Creek Wildfire, October 21 – 31, 2007.

FPP identifies the fire risk associated with the proposed land uses, and identifies requirements for fuel modification, building design and construction, and other pertinent development infrastructure criteria for fire protection. The cumulative analysis conclusion in the EIR is not contradictory to the statement in the FPP. Implementation of the FPP and mandatory compliance with applicable existing fire codes would reduce the potential for the Project to be impacted by wildland fires to below a level of significance.

RO-2-17 The commenter asks if the Fire Protection Plan cannot guarantee that the people or structures in the Project will not be exposed to a significant risk of loss, injury, or death involving wildland fires, then are there significant unmitigated impacts from fires? Please see Response to Comment RO-2-16 above regarding the statement in the FPP. Also, for clarification, the statement in the FPP states the plan does not guarantee “a fire will not occur or will not result in injury, loss of life or property.” The statement in the FPP does not refer to “significant risk of loss, injury or death.” The Project’s risk is minimized by the fire protection system that is incorporated in the planning, design, and construction of the structures, roads, water supply, fuel modification zones, emergency response, and related features.

RO-2-18 The commenter asks why the entire fire analysis was not redone in the SEIR, given the Camp Fire and the San Diego County’s Board of Supervisors’ request for recommendations in 2019. The fire analysis for Alternative H is considered appropriate for the site, its fire environment, and anticipated wildfire behavior. In regard to the Camp Fire, which occurred in northern California (Butte County) in 2018, please see Global Response R3: Structure Vulnerability and Ignition.

RO-2-19 The commenter asks why the standard for successful mitigation is based on the 2013 California Fire Code. (CFC). Unlike the 2015 EIR and FPP, which applied the 2013 CFC, the Fire Protection Plan for Alternative H utilizes the 2017 San Diego County Consolidated Fire Code and 2016 CFC and 2016 California Building Code as amended. These codes require structure hardening against wildfire and have been addressed in Alternative H FPP. Further, the proposed Project will be required to apply the codes applicable at the time building permits are pulled or the requirements detailed in the Project’s FPP, whichever is more restrictive.

RO-2-20 The commenter asks why not wait until the updated requirements are in place before considering this Project. The proposed Project’s fire risk has been appropriately analyzed, and appropriate mitigation measures will be implemented. The proposed Project will be required to apply the codes applicable at the time building permits are pulled or the requirements detailed in the Project’s FPP, whichever is more restrictive.

RO-2-21 The commenter is noting the differences between the Appendix D-21 and the DEIR discussions on fire analysis and mitigation. The FPPs for both the proposed Project and Alternative H, with analysis in the fire resources section of the DEIR, are regulatory planning documents that are utilized for a number of purposes, with one being to compare a project to the most recent building and fire code requirements. As with any project, Alternative H would be required to meet the

latest ignition-resistant codes, and Appendix D-21 and the earlier FPP both reference this fact. As the time between a project’s approval and actual construction may be years, code updates may occur, and the most recent requirements will be required and implemented on the new structures.

RO-2-22 The comment questions the Ready, Set, Go approach and specifically the generic examples provided for preparing a personal readiness kit. Several resources are provided for residents to prepare their own personal readiness kits, and each resident will customize theirs to their own priorities. The examples provided are not requirements but are samplings of what some people/agencies believe are important.

RO-2-23 The commenter is questioning what the evacuation checklist and direction look like. As noted, the County presents examples of personal evacuation kits that are available through many sources, including the County of San Diego’s website. Personal kits are not integrated into County disaster planning, as these are two very separate parts of an evacuation declaration. The personal plans should be prepared prior to an evacuation as part of resident awareness and readiness. The County’s disaster planning is a much larger-scale effort that pre-plans shelter sites, contractors, Red Cross, animal evacuation organizations, and many others.

RO-2-24 The comment states that it is “unclear” what standard was used to determine the greenhouse gas (GHG) emissions mitigation set forth in Section 2.10, Global Climate Change, of the 2019 Recirculation Package. The comment also asks whether “anything else was meant” by the reference to Appendix G of the CEQA Guidelines, as well as CEQA Guidelines Section 15064.4.

In response, as provided in Section 2.10, the Project’s GHG emissions mitigation framework is designed to ensure that the Project achieves carbon neutrality—a net zero emissions level. This standard ensures that the Project would not increase GHG emissions relative to the existing environmental conditions, which—for this subject area—are established via reference to existing, global GHG emissions inventory data.

Section 2.10 used the two questions set forth in Appendix G of the CEQA Guidelines as the thresholds of significance (2019 Recirculation Package, page 2.10-19). The EIR’s impact analysis is consistent with the commenter’s conclusion that, prior to mitigation, the “answer to these two questions is... yes, there are potentially significant impacts.” As provided on page 2.10-28 of the 2019 Recirculation Package:

“Impact GCC-1: Prior to the application of recommended mitigation measures, the Project’s GHG emissions would be potentially significant and potentially conflict with plans and policies designed to reduce GHG emissions due to the increase in GHG emissions as compared to the existing environmental setting.”

Section 2.10 also discussed CEQA Guidelines Section 15064.4 (Determining the Significance of Impacts from Greenhouse Gas Emissions) because it is one of the key provisions in the CEQA Guidelines pertaining to the assessment of GHG emissions. Section 2.10 also explained that

CEQA Guidelines Section 151216.4(c) (Mitigation Measures Related to Greenhouse Gas Emissions) was referenced and studied for purposes of developing the recommended parameters of the mitigation framework.

RO-2-25 The comment requests clarification on what CEQA Guidelines provision was used to develop the mitigation measures presented in Section 2.10. As discussed above in Response to Comment RO-2-24, CEQA Guidelines Section 15126.4(c) (Mitigation Measures Related to Greenhouse Gas Emissions) was referenced and studied for purposes of developing the recommended parameters of the mitigation measures. Section 15126.4(c) recognizes the effectiveness of design features to reduce GHG emissions (such as those identified in Appendix F of the CEQA Guidelines) and the use of off-site measures, including offsets.

RO-2-26 The comment references Executive Order (EO) B-55-18, which establishes a statewide carbon neutrality goal for 2045 and a goal to achieve and maintain net negative carbon emissions thereafter. The comment relatedly asks how the Project will achieve carbon neutrality and maintain net native carbon emissions.

In response, EO B-55-18 is discussed on page 2.10-8 of the 2019 Recirculation Package. The EO was recently issued (in September 2018) and included a direction to the California Air Resources Board (CARB) to “work with relevant state agencies to ensure *future* Scoping Plans identify and recommend measures to achieve the carbon neutrality goal.” (Italics added.) As such, during 2019, CARB has thus far held two workshops related to its carbon neutrality planning efforts—one in January 2019 (staff presentation available at https://www.arb.ca.gov/cc/scopingplan/meetings/012319/cneutrality_ca_script.pdf) and one in May 2019 (staff presentation available at <https://ww3.arb.ca.gov/cc/natandworkinglands/nwl-cn-051719.pdf>). As preliminarily defined by CARB staff during the January 2019 public workshop, carbon neutrality requires the minimization of GHG emissions from fossil energy and industrial sources, *and* converting natural and working lands from a source of GHG emissions to a sink of GHG emissions (i.e., enhancing carbon sequestration). However, CARB staff have not yet completed the balancing ledger exercise for a neutrality determination, or made a number of important policy-level recommendations regarding defining and achieving carbon neutrality.

Because a State plan is not yet in place for attainment of EO B-55-18’s carbon neutrality goal, no further analysis of the statewide goal can be provided. That being said, it is noted that the mitigation measures recommended for the attainment of a net zero GHG emissions level is complementary of carbon neutrality objectives because the mitigation calls for all Project-related emissions to be reduced, avoided, and/or sequestered. It also is noted that the mitigation period for the Project’s operational emissions is 30 years, which would extend the Project’s emissions reduction period beyond the 2045 reference year set forth in EO B-55-18.

RO-2-27 Referencing text from mitigation measure M-GCC-7 (similar text also appears in measure M-GCC-8), the comment inquires about what will happen if no one provides evidence to the County’s satisfaction that the Project has secured sufficient carbon offsets. In response, if sufficient evidence is not provided, the County shall not issue grading permits (in the case of M-GCC-7) or building permits (in the case of M-GCC-8). If permits are not issued, then Project GHG emissions-generating activities will not occur.

RO-2-28 Referencing mitigation measures M-GCC-7 and M-GCC-8, the comment asks about what constitutes satisfactory evidence to allow for permit issuance. As prescribed in mitigation measure M-GCC-7, “In making such a determination, the Director of Planning & Development Services shall require the Project applicant (or its designee) to provide an attestation or similar documentation from the selected registry(ies) that a sufficient quantity of carbon offsets meeting the standards set forth in this measure have been purchased and retired, thereby demonstrating that the necessary emission reductions are realized.” Substantively similar parameters are set forth in mitigation measure M-GCC-8, as the measure requires “documentation from the selected registry(ies) illustrating the retirement of carbon offsets meeting the standards set forth in this measure in a quantity equal to the GHG emission reductions that need to be realized.”

RO-2-29 Referencing mitigation measures M-GCC-7 and M-GCC-8, the comment asks who determines whether the evidence is satisfactory. As provided in the referenced measures, the Director of the Planning & Development Services Department is responsible for rendering a determination regarding the sufficiency of the evidence during the mitigation implementation phase for measures M-GCC-7 and M-GCC-8. Both mitigation measures are designed to provide the Director with numerous benchmarks and standards by which to assess the sufficiency of the evidence.

RO-2-30 The comment inquires about the noticing process for implementation of mitigation measures M-GCC-7 and M-GCC-8. In response, the mitigation measures will be implemented, monitored, and enforced pursuant to the CEQA-mandated MMRP and the County’s conditions of approval. The MMRP, in particular, will be used to assist with the tracking of carbon offsets prior to permit issuance. Documents submitted by Project representatives to the County pertaining to implementation of mitigation measures M-GCC-7 and M-GCC-8 would be public records, unless otherwise qualified for an exemption under the California Public Records Act.

RO-2-31 The comment states that it is unclear how the proposed mitigation, especially M-GCC-7 and M-GCC-8, meet the goals of the County General Plan, referencing Goal COS-20. For information regarding the Project’s consistency with the General Plan and Goal COS-20, refer to Global Response R2 and Recirculated Section 2.10 (2019). Based on the factual record, legal precedent and policy prerogatives described therein, the County does not intend for and does not interpret General Plan Goal COS-20 to prohibit the use of out-of-County offsets as a GHG reduction tool.

The comment also asks what evidence supports a determination that a sufficient supply of carbon offsets are available for the Project’s purposes. In response, the development of offset projects is driven by market demand, which—at least in part—is influenced by California’s strong environmental protection policies. Further, the mitigation triggers protect against the speculative potentiality referenced by the commenter, to provide proof of a sufficient offset quantity *before* issuance of permits. Therefore, if offsets are not available, permits will not be issued, and Project emissions will not occur. Please also see Global Response R2: Carbon Offsets.

RO-2-32 The comment is a concluding statement and requests that CNPSSD is informed of all developments with this proposed Project and associated documents and meetings. The County will notify CNPSSD as requested. This comment does not raise any issue or include any

substantive comment concerning the adequacy of the environmental analysis; therefore, no further response is provided.